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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Tomasena Powell an individual,

Plaintiff,

v.

Transdev Alternative Service, Inc., a
foreign corporation doing business in
Arizona,

Defendants.

Case No.

Complaint

(Jury trial requested)

Plaintiff Tomasena Powell, hereby files her Complaint against Defendant and alleges as follows:

1. Plaintiff Tomasena Powell (“Powell”) is an individual and at all relevant times was a resident of Maricopa County, Arizona, currently a resident of Pinal County.

2. Defendant Transdev Alternative Service, Inc., (“Transdev”) is a foreign corporation doing business in Arizona.

3. The acts or omissions giving rise to the claim occurred in Maricopa County, which is located in the District of Arizona. Venue is therefore appropriate.

1 4. This Court has original jurisdiction over all civil actions arising under the
2 Constitution of the United States, as well as laws and treaties of the United States
3 pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 2000e-2(a). This action is in part based on
4 alleged discrimination/ retaliation and the U.S. Constitution, and thus, jurisdiction in
5 Arizona District Court is appropriate.
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7 5. The Arizona District Court also has supplemental jurisdiction over all other
8 related claims which stem from the same case or controversy under Article III of the
9 United States Constitution. *See* 28 U.S.C. §§ 1331 and 1367.
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11 6. Plaintiff demands a jury trial on all issues triable by a jury.

12 7. A Right to Sue was issued by the EEOC on April 14, 2023 in EEOC 540-
13 2021-04195 and 540-2022-04797 and on May 30, 2023 for the termination claim, EEOC
14 540-2023-03910
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16 8. Plaintiff is a Black female who began working for Defendant on or about
17 February 10, 2020. Despite being a qualified Black female, she was discriminated against
18 and denied job opportunities and terminated based on her race and retaliated against for
19 her complaints.
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21 EEOC Charge 540-2021-04195

22 9. Powell was hired as a CDL Driver and during her employment, she was
23 denied special assignments which included overtime, training and an expense paid
24 transfer to another state. Other employees who we were not in a protected class were
25 offered those opportunities.
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1 10. She subsequently complained to Human Resources (HR) and then was
2 granted overtime.

3 11. In March of 2021, Transdev offered a relocation package to employees
4 willing to relocate to Texas.

5 12. After expressing her interest to her manager Joe Skelton, she was not
6 selected for the relocation incentive; but two male employees with less seniority were
7 awarded the relocation package.
8

9 13. In June 2021, Transdev offered a special assignment and Powell's co-
10 worker was selected; however, he was unable to take the assignment.
11

12 14. Powell's co-worker was told to find an experienced driver to take the
13 assignment and he recommended Powell to Joe Skelton who responded "no Tomasena
14 could not cover for him."
15

16 15. Transdever had also offered special training in July 2021 for the Single
17 Driver program, again Powell requested the assignment and was denied.

18 16. Powell complained to HR and asked why other CDL Drivers were placed
19 into the program.
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21 17. Powell was denied opportunities for training, relocation, and advancement
22 while white male CDL Drivers with less experience and seniority who were not members
23 of a protected class were given these opportunities.

24 EEOC Charge : 540-2022-04797
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1 18. In October 2021, a male Transdev employee stated that “Tomasena just
2 wants to get tea bagged.”

3 19. Powell complained to HR about the sexual harassment.

4 20. In December 2021, Powell bid on a new schedule based on seniority.

5 21. Transdev gave preferential treatment with the schedule to less senior Truck
6 Drivers who are outside of her protected class.

7 22. In February 2022, male employees played a comedy sketch on television
8 where the comedian spoke about race and his penis.

9 23. Powell complained to HR about the sexual and racial commentary.

10 24. On June 2, 2022, Powell was given disciplinary action and placed on
11 administrative leave without cause.

12 25. She returned to work on June 14, 2022.

13 26. On June 6, 2022, Transdev’s attorney called Powell to ask questions about
14 the October 2021 tea bag comment.

15 27. On Jun 19, 2022, Powell was given disciplinary action.

16 28. On August 3, 2022, Powell was given disciplinary action and placed on a
17 another two-day suspension.

18 EEOC Charge 540-2023-03910

19 29. On August 11, 2022, Powell filed a second charge of discrimination with
20 the EEOC against Transdev claiming that she was discriminated against on the basis of
21

1 sex and race, and retaliated against in violation of Title VII of the Civil Rights Act of
2 1964.

3 30. On September 1, 2022, Powell was placed on administrative leave.

4 31. On September 8, 2022, Powell was terminated.

5
6 COUNT ONE
7 Sex Discrimination
8 (Federal law)
9 EEOC Charge 540-2021-04195

10 32. Plaintiff adopts and incorporates all allegations in the paragraphs above.

11 33. Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000
12 (sex, national origin), Defendant had more than 15 employees at all times relevant to
13 these claims.

14 34. Here, Plaintiff was discriminated against in the workplace when she was
15 denied special assignments which included overtime, training and an expense paid
16 transfer, due to her female sex.

17 35. Plaintiff as a female belonged to a protected class, she was qualified for the
18 position given her years of employment and good work history, she was subjected to an
19 adverse employment action when she was denied job opportunities, and similarly situated
20 men were treated more favorably.

21 36. Plaintiff was damaged by the actions of the Defendant in violation of law.

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23 COUNT TWO
24 Sex Discrimination
25 (State law)
26 EEOC Charge 540-2021-04195

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2 37. Plaintiff adopts and incorporates all allegations above in paragraphs above.

3 38. A.R.S. §§ 41-1461 to -1468, 41-1481 to -1485 prohibit employment
4 discrimination including sex/gender discrimination under A.R.S. § 41-1463.
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6 39. ACRA defines an employer's "unlawful employment practices" as
7 discrimination based on race, color, religion, sex, age, national origin or disability in
8 failing or refusing to hire an individual; discharging an individual; classifying employees;
9 or advertising for employment; as well as discrimination against an employee or
10 applicant based on his or her participation in an enforcement proceeding against the
11 employer. §§ 41-1463(B), 41-1464.
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13 40. Plaintiff was discriminated against as she was denied special assignments
14 which included overtime, training and an expense paid transfer despite being qualified for
15 the positions and male employees were treated differently.
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17 41. Plaintiff was damaged by the Defendant when she was discriminated
18 against and terminated from her position.
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20 COUNT THREE
21 Racial Discrimination
(Federal law)
22 EEOC Charge 540-2021-04195

23 42. Plaintiff adopts and incorporates all allegations above in paragraphs above.
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1 43. Title VII makes it unlawful for an employer to "discriminate against any
2 individual with respect to his compensation, terms, conditions, or privileges of
3 employment, because of such individual's race. . ." 42 U.S.C. § 2000e-2(a)(1).

4 44. "Title VII prohibits both intentional discrimination (known as 'disparate
5 treatment') as well as, in some cases, practices that are not intended to discriminate but in
6 fact have a disproportionately adverse effect on minorities (known as 'disparate
7 impact')." *Ricci v. DeStefano*, 557 U.S. 557, 577 (2009).

8
9 45. A person suffers disparate treatment in his employment when he or she is
10 singled out and treated less favorably than others similarly situated on account of race."
11 *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1028 (9th Cir. 2006).

12
13 46. Here, Plaintiff was discriminated against in the workplace when she was
14 denied special assignments which included overtime, training and an expense paid
15 transfer due to her race while others were treated more favorably.

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17 47. Plaintiff was damaged by the actions of the Defendant in violation of law.

18 COUNT FOUR
19 Racial Discrimination
20 (State law)
21 EEOC Charge 540-2021-04195

22 48. Plaintiff adopts and incorporates all allegations above in paragraphs above.

23 49. A.R.S. §§ 41-1461 to -1468, 41-1481 to -1485 prohibit employment
24 discrimination and defines an employer's "unlawful employment practices" as
25 discrimination based on race, color, religion, sex, age, national origin.

1 50. Plaintiff was discriminated against when she was denied special
2 assignments which included overtime, training and an expense paid transfer. despite
3 being qualified for the positions and male employees were treated differently due to her
4 race.

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6 51. Plaintiff was damaged by the actions of the Defendant in violation of law.

7 COUNT FIVE
8 Sex Discrimination
9 (Federal law)

10 EEOC Charge : 540-2022-04797

11 52. Plaintiff adopts and incorporates all allegations in paragraphs above.

12 53. Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000
13 (sex, national origin), Defendant MCCCCD had more than 15 employees at all times
14 relevant to these claims.

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16 54. Here, Plaintiff was discriminated against in the workplace when she was
17 disciplined due to her sex/gender and similarly situated men were treated more favorably.

18 55. Plaintiff was damaged by the actions of the Defendant in violation of law.

19 COUNT SIX
20 Sex Discrimination
21 (State law)

22 EEOC Charge : 540-2022-04797

23 56. Plaintiff adopts and incorporates all allegations in paragraphs above.

24 57. A.R.S. §§ 41-1461 to -1468, 41-1481 to -1485 prohibit employment
25 discrimination including disability discrimination under A.R.S. § 41-1463.
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1 58. ACRA defines an employer's "unlawful employment practices" as
2 discrimination based on race, color, religion, sex, age, national origin or disability in
3 failing or refusing to hire an individual; discharging an individual; classifying employees;
4 or advertising for employment; as well as discrimination against an employee or
5 applicant based on his or her participation in an enforcement proceeding against the
6 employer. §§ 41-1463(B), 41-1464.

8 59. Plaintiff was disciplined after complaining about being discriminated
9 against and male employees were treated differently.

11 60. Plaintiff was damaged by the Defendant when she was discriminated
12 against by Defendant.

13 COUNT SEVEN
14 Racial Discrimination
 (Federal law)
15 EEOC Charge : 540-2022-04797

16 61. Plaintiff adopts and incorporates all allegations in paragraphs above.

17 62. Title VII makes it unlawful for an employer to "discriminate against any
18 individual with respect to his compensation, terms, conditions, or privileges of
19 employment, because of such individual's race. . . or national origin." 42 U.S.C. § 2000e-
20 2(a)(1).
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22 63. "Title VII prohibits both intentional discrimination (known as `disparate
23 treatment') as well as, in some cases, practices that are not intended to discriminate but in
24 fact have a disproportionately adverse effect on minorities (known as `disparate
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1 impact')." *Ricci v. DeStefano*, 557 U.S. 557, 577 (2009). 56. A person suffers
 2 disparate treatment in his employment when he or she is singled out and treated less
 3 favorably than others similarly situated on account of race." *Cornwell v. Electra Cent.*
 4 *Credit Union*, 439 F.3d 1018, 1028 (9th Cir. 2006).

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 6 64. Here, Plaintiff was discriminated against in the workplace when she was
 7 disciplined due to her race after she complained about discrimination while others were
 8 treated more favorably.

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 10 65. Plaintiff was damaged by the actions of the Defendant in violation of law.

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COUNT EIGHT
 Racial Discrimination
 (State law)
 EEOC Charge : 540-2022-04797

66. Plaintiff adopts and incorporates all allegations in paragraphs above.

67. A.R.S. §§ 41-1461 to -1468, 41-1481 to -1485 prohibit employment
 discrimination and defines an employer's "unlawful employment practices" as
 discrimination based on race, color, religion, sex, age, national origin.

68. Plaintiff was discriminated against when she was disciplined due to her
 race while others were treated more favorably..

69. Plaintiff was damaged by the Defendant in violation of law.

COUNT NINE
 Retaliation
 (Federal law)
 EEOC Charge : 540-2022-04797

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2 70. Plaintiff adopts and incorporates all allegations in paragraphs above.

3 71. Under a Title VII retaliation claim, a plaintiff must plausibly allege that (1)
4 she engaged in a protected activity; (2) her employer subjected her to an adverse
5 employment action; and (3) a causal link exists between the protected activity and the
6 adverse action. *Coleman v. Home Health Resources, Inc.*, 269 F. Supp. 3d 935, 941 (D.
7 Ariz. 2017).

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9 72. Here, Plaintiff was discriminated against in the workplace when she was
10 disciplined after complaining about discrimination.

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12 73. Plaintiff was damaged by the actions of the Defendant in violation of law.

13 COUNT TEN

14 Retaliation

(State law)

15 EEOC Charge : 540-2022-04797

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17 74. Plaintiff adopts and incorporates all allegations in paragraphs above.

18 75. Under .A.R.S. §§ 23-1501(A)(3)(a)-(c), retaliation for complaining about
19 discrimination is prohibited under state law.

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21 76. Here, Plaintiff was discriminated against in the workplace after
22 complaining about discrimination,

23 77. Ms. Powell she was disciplined after complaining.

24 78. Plaintiff was damaged by the actions of the Defendant in violation of law.

25 COUNT ELEVEN

Sex Discrimination
(Federal law)
EEOC Charge 540-2023-03910

79. Plaintiff adopts and incorporates all allegations in paragraphs above.

80. Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000 (sex, national origin), Defendant had more than 15 employees at all times relevant to these claims.

81. Here, Plaintiff was discriminated against in the workplace when she was terminated due to her female sex/gender.

82. Plaintiff as a female belonged to a protected class, she was qualified for the position given her years of employment and good work history, she was subjected to an adverse employment action when she was terminated, and similarly situated men were treated more favorably.

83. Plaintiff was damaged by the actions of the Defendant in violation of law.

COUNT TWELVE
Sex Discrimination
(State law)
EEOC Charge 540-2023-03910

84. Plaintiff adopts and incorporates all allegations in paragraphs above.

85. A.R.S. §§ 41-1461 to -1468, 41-1481 to -1485 prohibit employment discrimination including sex discrimination under A.R.S. § 41-1463.

1 86. ACRA defines an employer's "unlawful employment practices" as
2 discrimination based on race, color, religion, sex, age, national origin or disability in
3 failing or refusing to hire an individual; discharging an individual; classifying employees;
4 or advertising for employment; as well as discrimination against an employee or
5 applicant based on his or her participation in an enforcement proceeding against the
6 employer. §§ 41-1463(B), 41-1464.

8 87. Plaintiff was discriminated against as she was terminated from her position
9 despite being qualified for the position and male employees were treated differently.

10 88. Plaintiff was damaged by the Defendant when she was discriminated
11 against and terminated from her position.

13 COUNT THIRTEEN
14 Racial Discrimination
 (Federal law)
15 EEOC Charge 540-2023-03910

16 89. Plaintiff adopts and incorporates all allegations in paragraphs above.

17 90. Title VII makes it unlawful for an employer to "discriminate against any
18 individual with respect to his compensation, terms, conditions, or privileges of
19 employment, because of such individual's race. . . or national origin." 42 U.S.C. § 2000e-
20 2(a)(1).
21

22 91. "Title VII prohibits both intentional discrimination (known as 'disparate
23 treatment') as well as, in some cases, practices that are not intended to discriminate but in
24 fact have a disproportionately adverse effect on minorities (known as 'disparate
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1 impact')." *Ricci v. DeStefano*, 557 U.S. 557, 577 (2009). 56. A person suffers
 2 disparate treatment in his employment when he or she is singled out and treated less
 3 favorably than others similarly situated on account of race." *Cornwell v. Electra Cent.*
 4 *Credit Union*, 439 F.3d 1018, 1028 (9th Cir. 2006).

5
 6 92. Here, Plaintiff was discriminated against in the workplace when her
 7 employment was terminated due to her race.

8 93. Plaintiff was damaged by the actions of the Defendant in violation of law.

9
 10 COUNT FOURTEEN
 11 Racial Discrimination
 12 (State law)
 13 EEOC Charge 540-2023-03910

14 94. Plaintiff adopts and incorporates all allegations in paragraphs above.

15 95. A.R.S. §§ 41-1461 to -1468, 41-1481 to -1485 prohibit employment
 16 discrimination and defines an employer's "unlawful employment practices" as
 17 discrimination based on race, color, religion, sex, age, national origin.

18 96. Plaintiff was discriminated against when she was terminated due to her
 19 race.

20 97. Plaintiff was damaged by the Defendant when she was terminated from her
 21 position.
 22

23 COUNT FIFTEEN
 24 Retaliation
 25 (Federal law)
 26 EEOC Charge 540-2023-03910

27 98. Plaintiff adopts and incorporates all allegations in paragraphs above.

1 99. Under a Title VII retaliation claim, a plaintiff must plausibly allege that (1)
2 she engaged in a protected activity; (2) her employer subjected her to an adverse
3 employment action; and (3) a causal link exists between the protected activity and the
4 adverse action. *Coleman v. Home Health Resources, Inc.*, 269 F. Supp. 3d 935, 941 (D.
5 Ariz. 2017).

6
7 100. Here, Plaintiff was discriminated against in the workplace when she was
8 terminated after complaining to Defendant about her discrimination.

9 101. Plaintiff was damaged by the actions of the Defendant in violation of law.

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11 COUNT SIXTEEN
12 Retaliation
13 (State law)
14 EEOC Charge 540-2023-03910

15 102. Plaintiff adopts and incorporates all allegations above in paragraphs above.

16 103. Under A.R.S. §§ 23-1501(A)(3)(a)-(c), retaliation for complaining about
17 discrimination is prohibited by Arizona law.

18 104. Here, Plaintiff was discriminated against in the workplace when she was
19 terminated after complaining to human resources about the treatment she was
20 experiencing.

21 105. Ms. Powell's complaints should have been pursued against those violating
22 her rights, however, after she complained, she was terminated.

23 106. Plaintiff was damaged by the actions of the Defendant in violation of law.

24 PUNITIVE DAMAGES

